



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 31674146

Date: OCT. 21, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidence requirements for the classification by establishing the Petitioner's receipt of a major, internationally recognized award, or by meeting at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a

major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). 6 *USCIS Policy Manual* F.2, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

## II. ANALYSIS

Because the Petitioner has not indicated or shown that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director determined that the Petitioner met two of the regulatory criteria by providing sufficient evidence of her authorship of scholarly articles in the field in a professional or trade publication or major media and display of her work. *See* 8 C.F.R. § 204.5(h)(3)(vi) and (vii). On appeal, the Petitioner asserts that she also meets five other criteria, including the receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor criterion at 8 C.F.R. § 204.5(h)(3)(i). She asserts that the Director erred in determining that she did not meet the plain language of these five criteria.

As more fully discussed below, we conclude that the Petitioner has met the criterion at 8 C.F.R. § 204.5(h)(3)(i). Because the Petitioner has shown that she satisfies at least three criteria, we will remand the matter to the Director to evaluate the totality of the evidence in the context of a final merits determination to determine whether the Petitioner has demonstrated her sustained national or international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation.

*Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i)

In order to satisfy this criterion, the Petitioner must demonstrate that she has received lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.<sup>1</sup> Relevant considerations regarding whether the basis for granting the prizes or awards was for excellence in the field include, but are not limited to: the criteria used to grant the awards or prizes, the national or

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<sup>1</sup> *See* USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

international significance of the awards or prizes in the field, and the number of awardees or prize recipients as well as any limitations on competitors.<sup>2</sup>

Regarding some of the awards the Petitioner received as a student, the Director determined that these were limited to other students and counted them out of the running as sufficient evidence. The USCIS Policy Manual recognizes it is possible for some scholastic awards to qualify under the awards criterion provided they are not limited to persons within a single locality, employer, or school but “an award open to members of a well-known national institution (including an R1 or R2 doctoral university) or professional organization may be nationally recognized.” *See generally* 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policymanual>. The relevant factor is whether the filing party shows the award is recognized in the field at a national or an international level. *Id.*

On appeal, the Petitioner documented her receipt of various awards and submitted supporting documentation for the awards. While some of the awards are not eligible as they do not meet the plain language of this criterion, the Petitioner did provide sufficient evidence that she was the recipient of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The Ministry of Education in the Russian Federation awarded the Petitioner the Russian National Award, [REDACTED] in 2020 and 2021. The Petitioner submitted regulations outlining the selection process for this award. In addition, the Petitioner provided evidence that established that her school-based award is a nationally recognized award for excellence in her field.

For the foregoing reasons, we agree with the Petitioner that, more likely than not, she meets the plain language requirements for this criterion and the Director erred in concluding otherwise. We withdraw this aspect of the Director’s decision and remand the matter for further review and entry of a new decision. Because the Petitioner has established her qualifications under criteria at 8 C.F.R. § 204.5(h)(3)(i), (vi), and (vii), on remand, the Director should conduct a final merits review of the evidence of record.

As extraordinary ability is an elite level of accomplishment whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria alone. The final merits determination is the ultimate statutory inquiry of whether the applicant has extraordinary ability as demonstrated by sustained national or international acclaim. *Amin v. Mayorkas*, 24 F.4th 383, at 395 (2022). The Petitioner seeks a highly restrictive visa classification, intended for the handful of individuals at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). As contemplated by Congress, the Petitioner must demonstrate the required sustained national or international acclaim, consistent with a “career of acclaimed work in the field.” H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act.

The new decision should include an analysis of the totality of the evidence, evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or

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<sup>2</sup> *Id.* (indicating that an award limited to competitors from a single institution, for example, may have little national or international significance.)

international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. We express no opinion regarding the ultimate resolution of this case on remand.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.